

MINUTES OF THE MEETING  
OF THE  
BOARD OF MEDICINE AND SURGERY

February 24, 2006

ROLL CALL

The meeting of the Board of Medicine and Surgery was called to order by Vice-Chairman David Dryburgh at 8:59 a.m. on Friday, February 24, 2006, at Staybridge Suites, Staybridge Room, 2701 Fletcher Ave, Lincoln, Nebraska. The following members answered to roll call:

David A. Dryburgh, Vice-Chairman  
Carl V. Smith, MD, Secretary  
Larry E. Bragg, MD  
Randy T. Kohl, MD  
Vonn E. Roberts, MD  
Arthur A. Weaver, DO

Absent: Michael A. Sitorius, MD, Chairman  
Samuel L. Brown, PhD

A quorum was present and the meeting convened.

Also present to participate in the meeting: Terri Nutzman, Assistant Attorney General, Robert Semerena, Administrator, Investigations Division; Michael Grutsch, Program Manager, Investigations Division; Susanne Rydberg, Investigator; Patricia Lemke, Investigator; Duane Newland, Investigator; Barb Reemers, Investigator; Becky Wisell, Section Administrator, Credentialing Division; Vicki Bumgarner, Credentialing Coordinator, Credentialing Division; Meegan Dyrland, Credentialing Specialist, Credentialing Division.

Dryburgh introduced Dr. Edward Discoe, family physician from Columbus who is a physician member on the Board of Health. He extended an invitation to all board members to attend a Board of Health meeting. They meet approximately six times per year.

ADOPTION OF AGENDA

Weaver moved, seconded by Smith, to adopt the agenda. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

APPROVAL OF MINUTES OF THE MEETING FROM JANUARY 20, 2006

Smith moved, seconded by Weaver, to approve the minutes of the January 20, 2006 meeting. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

INVESTIGATIONAL REPORTS

Smith moved, seconded by Weaver, to go into closed session for the purpose of hearing investigational reports. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried and the meeting went into closed session at 9:01 a.m.

DISCIPLINARY REPORTS

The meeting returned to open session at 11:18 a.m.

MEDICAL APPLICATION REVIEW AND DISPOSITION

Initial Licensure

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Kenneth Azarow, MD- the Board reviewed information regarding two malpractice claims (for surgeries performed in 8/1996 and 8/2000). Kohl moved, seconded by Smith, to approve issuance of a license to Azarow. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

Leon N. Sykes Jr., MD- the Board reviewed information regarding three malpractice claims (Rindone, Kosmoski and Webster). Smith moved, seconded by Kohl, to approve issuance of a license to Sykes. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

Gregg Allen, MD- the Board reviewed information regarding non-disciplinary restrictions or actions in four states. The Board discussed that Allen has not participated in clinical medicine since 1989. Wisell stated that the board had previously decided that administrative medicine meets the statutory definition of medicine and surgery even though it is not clinical. There is no category of license in Nebraska that can be issued just for administrative medicine. Smith indicated this is something that needs to be considered for future legislation. Roberts moved, seconded by Smith, to approve issuance of a license to Allen. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

John Paul Blakely, MD- the Board reviewed Blakely's post-graduate medical education forms. Smith moved, seconded by Bragg, to approve issuance of a license to Blakely. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

The Board discussed adding language to the next Regulations draft that would require all post-graduate medical education to be verified for license applications.

Paul John Vollmar, MD- the Board reviewed information concerning Vollmar's post-graduate medical education. Kohl moved, seconded by Smith, to approve issuance of a license to Vollmar. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

AAM Abdullahel Baqui, MBBS- this applicant required over seven years to complete all parts of the licensing examination. Neb. Rev. Stat. 71-131(6) states that all parts of the examination must be completed within seven years and if that is not the case, then those parts that are not within the time allowed will need to be retaken. Bragg moved, seconded by Roberts, to deny issuance of a license to Baqui. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

David Mark Lunn, MD- the Board reviewed the applicant's request for a 4-month refresher course at the University of Nebraska Medical Center (UNMC) in anesthesiology. The Graduate Medical Education Office at UNMC indicated that Lunn would be completing the last one-half of the third year of their ACGME accredited anesthesiology residency. The Board discussed whether or not this course met the regulatory definition of "approved graduate medical education", which is a requirement in order for a TEP to be issued. Regulations state that "approved graduate medical education" means ACGME or AOA accredited programs, or any program that the Board deems comparable to ACGME or AOA requirements, and approved by the Department upon recommendation of the Board. The Board determined that the program set out by UNMC for Lunn to complete as a refresher is equivalent to the standards of ACGME, since Lunn would be participating in the accredited residency. Roberts moved, seconded by Weaver, to approve issuance of a Temporary Educational Permit to Lunn. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

Marie Weston, MD- the Board had been mailed confidential information. Smith moved, seconded by Kohl, to approve issuance of a license to Weston. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

John Philip Bays, MD- the Board reviewed information regarding three malpractice claims (Grull, Gonzalez, Chaidez). Weaver moved, seconded by Kohl, to approve issuance of a license to Bays. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

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Dayne M. Nelson, MD- the Board had been mailed confidential information. Kohl moved, seconded by Bragg, to approve issuance of a license to Nelson. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

### Reinstatement

Jeffrey James Nichols, MD-application for reinstatement from inactive status. This license was put on inactive status on October 2, 1994. The Board reviewed information regarding one malpractice claim. Kohl moved, seconded by Bragg, to reinstate the license for Nichols. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

### PHYSICIAN ASSISTANT APPLICATION REVIEW & DISPOSITION

Jayne Novotny, PA-application for reinstatement of license within one year of non-disciplinary revocation. The license was revoked for non-payment of fees on November 14, 2005. Smith moved, seconded by Bragg, to reinstate the license for Novotny. Voting aye: Dryburgh, Bragg, Kohl, Roberts, Smith, Weaver. Voting nay: None. Absent: Sitorius, Brown. Motion carried.

Dryburgh introduced Kay Kahla, former public member of the Board. She has agreed to be co-editor for the Board newsletter.

### DISCIPLINARY INFORMATION – ACTIONS TAKEN & PENDING

The Board reviewed the actions taken and pending since the last meeting.

### 2006 LEGISLATION UPDATE

Wisell informed the Board of some updates on legislation that may affect the profession.

**LB 833**-The Bill that would amend Medicine and Surgery statutes regarding who needs a license. The Board questioned why radiologists are singled out. They felt that all specialties that may provide services to Nebraska on a routine basis should have to be licensed as well. In other words physicians providing all regular, on-going services should be required to have a license. This Bill is now on Select File. The Board stated they want to send a letter to the Health and Human Services Committee stating their concern on this issue.

Bragg left meeting at 12:35 p.m.

**LB838**-The Bill that would exempt CRNA's from needing a radiography license has not moved out of committee.

**LB908** –The Bill that would exempt Advance Practice Registered Nurse (APRN) from needing a license to take x-rays has been indefinitely postponed.

**LB1163**-On February 10, there was a hearing held for the Bill that would change the statute of limitation for malpractice. This Bill was not out of committee yet.

**LB1260**-Also on February 10, there was a hearing held for the Bill that modified the Hospital Medical Liability Act. The Bill was not out of committee yet.

**LB1177**-Senator Jensen introduced this bill as a statement of intent to introduce the bill that concerns the ULL/UCA in 2007.

**LB1079**-this priority bill that would create an immunosuppressant drug repository was placed on general file Feb 14<sup>th</sup>.

**LB1116**-the bill adding changes to the cancer drug repository was placed on priority file February 23<sup>rd</sup>.

**LB318**-the carryover bill regarding out of state wholesale drug distributors was placed on general file and a press conference is scheduled for March 1.

Nominations to Board of Directors and Committees

Kohl is running for Board of Directors. Brown was not selected to run for Board of Directors this year because of the large number of applications from consumer members. Weaver suggested that Brown become involved on one of the FSMB Committees for next year. The deadline for requests for Committees for next year has passed. The Board encouraged Brown to run for the Board again next year.

Proposed Amendments to Federation By-Laws

The Board discussed amendments to the Federation By-Laws. Dryburgh is on the Committee. Any comments regarding these changes should be given to Sitorius, since he is the voting delegate for the Annual meeting.

UNFINISHED BUSINESS

Board of Medicine Newsletter

Kahla handed out questions regarding the newsletter. She asked everyone to fill out the questionnaire for next meeting, April 7, 2006. The Board discussed general topics of interest for the newsletter: where is help available, Q & A section, renewal information, article written by peers in different specialties, disciplinary action taken. The first newsletter should focus on "who is the board" and what are you, as a Board, trying to accomplish. To get ideas for future newsletters, ask the recipients what they would like to see in the newsletter. The goal is to have the first publication by the fall of 2006.

Paperless Meetings

The Department hopes to have demonstrations at the next meeting. Wisell shared that the Department purchased a high speed scanner.

DISCUSSION OF USE OF TERM "BOARD-CERTIFIED"

The Board discussed asking the Federation of State Medical Boards to do a study on the issue of use of the term "Board-Certified" because it covers such a broad area and seems to be more than one state board can handle. It was also discussed that the Citizens Advocacy Center (CAC) might be interested in this.

FINANCIAL REPORT

The Board reviewed the status of the budget as of December 31, 2005.

LICENSEE ASSISTANCE PROGRAM QUARTERLY REPORT

The Licensee Assistance Program (LAP) Quarterly Report was provided to update the Board on the LAP program.

Physician renewal will take place this fall. Wisell discussed the new vendor for processing online renewals and hopes that physicians will once again have the ability to renew online.

FYI: The Post-Licensure Assessment System (PLAS), which is affiliated with the National Board of Medical Examiners (NBME) and the Federation of State Medical Boards (FSMB), has discontinued providing assessments at their national headquarters effective December 2005. They will continue their collaborative relationships with regional assessment programs.

A 407 Technical review committee has been formed on midwifery.

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ADJOURNMENT

There being no further business, the meeting adjourned at 1:41 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl V. Smith". The signature is written in a cursive, flowing style with a prominent initial "C".

Carl V. Smith, M.D. Secretary  
Board of Medicine and Surgery